

**REMARKS**

Claims 1-6 and 8-16 were pending in the application. Claims 4-6, 8, 11, and 13 are hereby amended. Claims 1-6 and 8-16 remain pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the following remarks.

This Supplemental Amendment is based on a telephone conference on August 4, 2003 between Applicant and Examiner Kovacs. The telephone conference pertained to the applicability of prior art cited, though not relied upon, in the original Office Action that is now deemed applicable to the claim 6 as previously amended. Applicant appreciates the Examiner taking the time to conduct the telephone conference.

**I. Claim Amendments**

The Examiner noted three prior art references in particular that were applicable to independent claim 6: U.S. Pat. Nos: 3,174,266 (Hoeksema), 3,721,359 (Howell), and 4,419,037 (Niewold).

**A. Claim 6**

Claim 6, as amended, recites that an auger is movable between a storage position and an unloading position for unloading crop material from the storage bin. The auger has a horizontal section including a first and second segment. The first segment is movable with respect to the storage bin. A hinged joint pivotally connects the first and second segments, thereby allowing said segments to be relatively pivoted when moving the auger between the storage and unloading positions. The first and second segments are horizontally disposed both when the auger is disposed in the storage and in the unloading positions.

None of the above-mentioned prior art teach or suggest these claim limitations. For instance, Hoksema illustrates a pair of segments (unnumbered in Fig. 1) that are connected via a hinge (also unnumbered) to enable the segments to translate in the vertical direction. Furthermore, the second segment as illustrated is vertically disposed.

Likewise, Niewold discloses an auger tube 16 that pivots between a horizontal position and a vertical position (See Fig. 1). Niewold states that "the auger tube 16 may be

moved between any one of a number of arcuate positions between vertically upward ... to horizontally rearward" (Col. 4, lines 48-51). Accordingly, Niewold fails to teach or suggest the first and second segments recited in claim 6. It should further be noted that Niewold's auger-hopper construction is mounted at the tailgate of a truck (see abstract), while the present invention minimizes the extended portion of the auger which overhangs the rear end of the combine (See pending application "Summary of the Invention" Section at lines 23-26).

Finally, Howell discloses a first segment 21 that is attached to the grain tank and a second segment 24 pivotally attached to the first segment (See Figs 1 and 20). The first segment 21 protrudes outwardly from the grain tank a sufficient distance to enable the second segment 24 to extend along the combine 10 when the unloader tube is in the storage position. The first segment thus is not movably attached to the grain tank. Accordingly, Howell also fails to teach or suggest each claim limitation present in amended claim 6.

#### B. Claims 8, 11, and 13

Claims 8, 11, and 13 have been amended for the purposes of proper dependency from amended claim 6.

Because none of the cited references teach or suggest all each element of claim 6 as amended, Applicant respectfully requests formal allowance of claims 6, 8-14, and 16.

#### C. Claims 4 and 5

Claims 4 and 5 are amended by way of this amendment for organizational purposes only, and not to amend any recited claim language.

### **II. Allowable Subject matter**

Applicant appreciates the Examiner's indication on the telephone that claims 1-5 and 15 contain allowable subject matter. Because the present Amendment is believed to place the application in condition for allowance, Applicant respectfully requests formal allowance of claims 1-5 and 15.

### **III. Conclusion**

In view of the above amendments and remarks, Applicant believes claims 1-6 and 8-16 of the present application recite patentable subject matter and formal allowance of the


same is requested. The Examiner is invited to contact the undersigned at the number below if such would advance the prosecution of this application.

No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment. However, if an additional fee is required for this or any other communication, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

Dennis P. Silver

By:



Adam J. Forman

Reg. No. 46,707

Attorney for Applicant

Quarles & Brady

411 E. Wisconsin Avenue, Suite 2040

Milwaukee WI 53202-4497

(414) 277-5405

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